

produce any documents responsive of Plaintiff's Subpoena.

4. In Compliance with the court's meet-and-confer Order issued on September 8, 2023, Plaintiff's counsel reached out and spoke to Defendant's counsel through email and via telephone on September 12, 2023; September 13, 2023, September 15, 2023, September 18, 2023, September 20, 2023, September 22, 2023, October 2, 2023, October 12, 2023, and October 15, 2023. Defendant's counsel did produce documents on October 12, 2023 and October 13, 2023, however a substantial number of documents were withheld by Wood's O'Neil on the basis of attorney-client privilege whereas no privilege log was ever produced. Furthermore, multiple relevant documents continue to be withheld, to which Plaintiff is entitled.

Therefore, for the reasons set forth more fully in the incorporated Brief in Support, Ross asks that this Court grant his Motion and overrule Defendants' and Woods, Stephens, and O'Neil's objections to the Subpoena and further issue an order compelling Woods, Stephens, and O'Neil to produce all documents responsive to Plaintiff's Subpoena.

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests the Court set a hearing on the matter to hear the arguments and ultimately grant Plaintiff's Motion to Compel Production of Documents in Response to Subpoena to Woods, Stephens, and O'Neil L.L.P. and for such other relief as the Court deems proper.

THIS, the 19th day of October, 2023.

Respectfully submitted,

By: /s/ Kerri Phillips
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CERTIFICATE OF CONFERENCE

Pursuant to Local Rule 7.1(b) I hereby certify that counsel for the movant has conferred with Defendant in a good faith effort to resolve the issues raised herein. Plaintiff's counsel conferred with Defendants' counsel on via email on August 14, 2023, August 17, 2023, August 18, 2023. A telephone call was held on August 23, 2023 wherein the concerns and objections were discuss, in particular Plaintiff offered to limit the time frame of the Requests for Production No. 1, 2 and 3 to overcome Defendants objections without success in appeasing him. Plaintiff's further conferred with Defendants via email on August 25, 2023, August 26, 2023, and received a response on August 30, 2023 stating documents would be produced on August 31, 2023. As of the date of filing this Motion, Plaintiffs served extremely limited responses that were heavily redacted and only responsive to Request for Production 2, and no documents have been received from Woods, Stephens, and O'Neil. Counsel conferred on September 1, 2023 as to the relief requested in this Motion and Defendants' counsel has replied they are opposed to the Motion. Counsel for Diversified is unopposed.

Additionally, in compliance with the Court's order entered on September 8 2023, Plaintiff's Counsel conferred with Defendant's counsel on September 12, 2023 via email, on a telephone call on September 15, 2023. I was informed Opposing counsel did not know if he represented Woods, Stephens O'Neil (despite declining to withdraw his objections prior to the original filing of this motion), so I emailed notice to Hal O'Neil, Bill Osborne, (prior counsel) and Sandford Denison (prior counsel) on September 18, 2023 and mailed certified mail a copy of the pleading to Hal O'Neil. Subsequently emailed on September 20, 2023 and September 22, 2023. On September 25, 2023, Opposing counsel confirmed his representation of Woods Stephens and O'Neil, LLP. Likewise, Plaintiff's Counsel emailed Defendants' Counsel on October 2, 2023, October 12, 2023 October 15, 2023. Defendants' counsel served very limited and heavily redacted documents, and opposes this motion. Plaintiff maintains that no attorney client privilege can be maintained between counsel for Defendant and Woods, Stephens, and O'Neil prior to the filing of this matter and therefore asks the court to compel discovery.

As of October 19, 2023, Defendant's counsel did send a final email with minimal documents—still redacted, just before Plaintiff's deadline to amend this pleading, however all of Plaintiff's original issues continue to persist. (See Appendix pp. 68-75).

THIS, the 19th day of October, 2023.

By: /s/ Kerri Phillips
Kerri Phillips, Esq.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **BRIEF IN SUPPORT OF MOTION TO COMPEL PRODUCTION OF DOCUMENTS IN RESPONSE TO SUBPOENA ISSUED TO WOODS, STEPHENS, O'NEIL, L.L.P.** has been served in accordance with the Federal Rules of Civil Procedure to all counsel of record identified below on this 19th day of October, 2023.

By: /s/ Kerri Phillips
Kerri Phillips, Esq.

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